

**AMENDED MINUTES  
HAMPTON ZONING BOARD OF ADJUSTMENT  
THURSDAY, SEPTEMBER 21, 2006**

**MEMBERS PRESENT:** Robert V. Lessard, Chairman  
Tom McGuirk, Vice-Chairman  
Bill O'Brien, Clerk  
Matt Shaw  
Jack Lessard, Alternate

**OTHERS PRESENT:** Kevin Schultz, Building Inspector  
Angela Silva, Recording Secretary

The Chairman called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance to the Flag.

He then called for correction and acceptance of the August minutes. Mr. O'Brien noted a correction on the last petition. Vic did not vote against the petition, he abstained.

Mr. O'Brien **MOVED** to accept the minutes as corrected, **SECONDED** by Mr. Jack Lessard.

**VOTE:** For 5, Oppo 0

**MOTION PASSES.**

**46-06** The postponed petition of Alan Painten for property located at 96 Glade Path seeking relief from Articles 1.3, 4.5.2 and 4.5.3 to replace an existing storage shed in disrepair with a new 10'x10' storage shed. This property is located at Map 262, Lot 15 in a RCS zone.

The petitioner was not present. The Board decided to call the petition again later in the meeting.

**48-06** The petition of Barbara Ranzoni Trustee for property located at 13 Charles Street seeking relief from Articles 1.3 and 4.5.1 to allow construction of platform and 5 stairs for front entrance. This property is located at Map 275, Lot 62 in a RCS zone.

Builder, Brian Reardon came to the table to speak on the petition. He submitted to the Chairman a letter from the property owner allowing him to do so.

Mr. Reardon explained that this request for variance is a safety issue. As it stands right now you have to step back 2 or 3 steps to open the front door, as the door swings out. He then read through the 5 criteria as submitted with the petition.

*Questions from the Board: None.*

*Comments from the Audience: None.*

*Back to the Board:*

The Chairman asked the Board if they agreed with the 5 criteria. They all agreed.

Mr. Jack Lessard **MOVED** to grant the petition, **SECONDED** by Mr. McGuirk.

VOTE: For 5, Oppo 0

MOTION PASSES.  
PETITION GRANTED.

49-06 The petition of Guy Pelletier for property located at 32 Nudd Avenue seeking relief from Articles 1.3 and 4.5.2 to build an extension on the second floor that would connect the division that exists between the front and the rear roof of the house. The extension will be flush with the existing floor plan, which is 1 ½ feet from the west side property line. This is needed to alleviate the current problem of water build-up and internal leaking caused by the existing flat roof, even after repeated attempts to fix it. This property is located at Map 274, Lot 145 in a BS zone.

Mr. Pelletier came to the table speak on this petition. He said he's owned the property for 2 years. The area under petition has a flat roof and he's had a lot of trouble with leaks. He feels his only solution would be to add a second floor and have a roof level with the front and back roofs. He needs a variance because he's only 1 foot from that property line. To recess that area wouldn't look good with the way the rest of the house already exists.

*Questions from the Board: None.*

*Comments from the Audience:*

Ernest Perry, 34 Nudd Ave, said he is the abutter next to this addition. He introduced his son who will be speaking for him. He is a lawyer, he said.

Timothy Perry said his family is concerned with this proposal. They have owned their property for 94 years. This is his father's 70<sup>th</sup> year at the property. This is a special place to them. They sympathize with the leak issue. The area in question is presently about 10 feet high. They will be adding maybe 13 more feet. This is right in their view. This will block their back yard from sunrise and breeze. He already has a couple air conditioning units that leak water onto their property, he said. There has to be a less intrusive way to address this leak, he said, rather than adding a 13 foot high addition.

Discussion followed on the proposal. There is a 1 story area between 2 higher areas. Mr. Pelletier wants to bring that roof up to meet the front portion, second story. Mr. Pelletier said the addition will be enlarging 2 existing bedrooms upstairs. Right now he has 1 bedroom at the front and 2 at the back. He has 4 bedrooms, existing.

Mr. Timothy Perry submitted a picture of the property.

Mrs. Barbara Perry, 34 Nudd Ave, is concerned what's going into this addition. They already live in the back and rent out the front. She's concerned they're trying to put an apartment in the back.

Mr. Pelletier said he's rented only 1 week in 3 years and the people stayed in the house along with him.

Mrs. Perry said there's a sign on the cottage for rent. He put on a deck a year ago and stepped in 4 feet. He also put on a sliding door to the deck.

Mr. Schultz confirmed that the deck addition met zoning. Discussion followed on the design of the proposal, particularly the roof plan.

Mrs. Perry said the addition is 265 square feet.

Mr. Pelletier said the rear area won't have access to get up into this addition. It will be enlarging the 2 bedrooms upstairs only.

Mrs. Pat Kearney, across the street, said she's a year round resident. She can attest that Mr. Pelletier has come to the property many times to work on it. She can't speak to the addition but she has seen a builder over there talking with him. She feels he's just trying to make his property better. She appreciates people who try to contain their home. So it is comfortable and safe to be in.

***Back to the Board:***

The Board and Mr. Pelletier discussed his reasons for his plan. The existing first floor has a solid foundation around the perimeter of the section in question. This is why Mr. Pelletier wants to make the second floor that size. Mr. Shaw thought he should continue the gambrel style roof over this area in the same direction. Mr. O'Brien doesn't like the T-shape. The deck was put on about 2 years ago, with a permit. Mr. O'Brien commented he's .5 feet from the lot line at the closest point. He suggested moving the air conditioners to the other side of the house. The Board wondered if he has a permit to rent the property.

Mr. Pelletier read through the 5 criteria as submitted with the petition.

Mr. Vic Lessard asked if the survey was from the drip edge or foundation.

Mr. Pelletier wasn't sure.

If the plan is to the foundation then the drip edge would be on the property line, Mr. Lessard said. Averaging the front a rear side setback, he figured the area in question to be about 1 foot from the property line. This is awful close, he said.

Extensive discussion followed on the plan. Mr. Schultz recommended moving the living space in 3 or 4 feet to meet the setback and then having a covered, open porch on that side to keep the roof 1 level across the area. Mr. Vic Lessard discussed just an open deck over a new roof on this area.

The Board discussed the 5 criteria. Mr. Shaw doesn't see a hardship with 29 feet on the other side of the structure. If he's allowed to do this, it may add value to his property, but maybe not the abutters. Mr. O'Brien has empathy because of the water problem. He can't use the other 29 feet to correct this water problem. Mr. Shaw understands why he would want to tie the roofs together. Aesthetically it would be better for everybody.

Mr. McGuirk feels the Board should vote on this petition and let him come back with a different proposal.

Mr. Jack Lessard MOVED to deny the petition, SECONDED by Mr. McGuirk.

VOTE: For 5, Oppo 0

MOTION PASSES.  
PETITION DENIED.

50-06 The petition of Kenneth Fisher for property located at 26 Island Path seeking relief from Articles 1.3, 4.5.1 and 4.5.2 to construct a new first floor addition to create a 2-car garage under to allow for off street parking. This property is located at Map 282, Lot 17 in a BS zone.

Mr. Fisher and his sister Kelly Lajoie came to the table to speak on this petition.

Mr. Fisher said he would like to raise his cottage and put a garage under for parking. Right now he has no parking. He then read through the 5 criteria as submitted with his petition.

*Questions from the Board:*

Mr. O'Brien asked if there was going to be a garage door at the front. Mr. Fisher agreed.

Mr. O'Brien commented that the house is currently on the property line. If he is allowed to put a garage under, he would like to see the house moved back 4 feet to meet zoning and to improve safety when backing out into the road. Mr. Fisher said the Conservation Commission said to keep the house in the same spot and then allowed a small deck at the rear for egress. His neighbors extend out to the rear 15 to 20 more feet than he does, he said.

Mr. Vic Lessard offered to postpone the petition so that the petitioner can go back to the Conservation Commission to see if they will agree to move the house back the 4 feet for the purpose of safety.

Mr. McGuirk commented that he could shorten the foundation 4 feet in the front and let the front of the house overhang. This would still give him some sight distance when pulling out onto the street.

Ms. Lajoie said he had approval to do this 3 years ago. She presented a signed Zoning Petition from 1991 allowing him to move the house back to be even with the neighbors. They have already been to the Planning Board and received a Special Permit. The Planning Board said they can go ahead, but Mr. Schultz said they had to come back here, she said.

*Comments from the Audience: None.*

*Back to the Board:*

Mr. O'Brien would like to postpone so that they can discuss moving the building back 4 feet with the Conservation Commission, due to safety on this high traffic road. Also because the structures on either side are 12-20 feet more deep into the wetland setback.

Mr. Fisher said his rear deck is 6 foot deep with stairs at the rear. The deck is mainly for egress.

Mr. Fisher said 6 feet would make him even with the neighbors.

The Chairman noted that he will be first on the agenda next month.

Mr. O'Brien MOVED to postpone the petition to the October meeting, SECONDED by Mr. Jack Lessard.

VOTE: For 5, Oppo 0

MOTION PASSES.  
PETITION POSTPONED.

51-06 The petition of Joseph W. & Joseph M. Rushton for property located at 91 Acorn Road seeking relief from Articles 1.3, 4.5.1, 8.2.3 and Article 4 Footnote 12 (steps) to replace an existing seasonal 327 sq. ft. cottage with a new seasonal 398 sq. ft. cottage due to age and disrepair. The new cottage will be somewhat larger but replaced in the same location and in keeping with the character of the neighborhood. This property is located at Map 134, Lot 49 in a RB zone.

Mr. Rushton came to the table to speak on this petition.

Mr. O'Brien questioned the abutter list. Why wasn't 134-50 notified? Mrs. Silva, who also does the abutter lists, said that she notified everybody on the lot and all directly abutting cottages to the lot and the abutting lot owners. The only questionable one was lot #71. Mrs. Priscilla Fanning said lot 71 is family with 72, 73 and 74. She's sure they all know about the petition.

Mr. Jack Lessard MOVED to go ahead with the hearing of this petition, SECONDED by Mr. Shaw.

VOTE: For 5, Oppo 0

MOTION PASSES.

Mr. Rushton said this is a unique neighborhood. The cottage is 60 years old and was built by his uncle. He doesn't believe anybody expected these cottages to still be standing today. We didn't even have a toilet until he was in junior high school, he said. The plumbing needs replacing. The electric needs updating. He spoke to Mr. Reardon, a representative at an earlier petition, and he agreed that the cottage should be replaced. The new one will be a little bit wider, a little bit longer and a little bit taller. He's spent every summer of his life here and his son does now. He then read through the 5 criteria as submitted with his petition.

*Questions from the Board:*

Mr. Shaw asked if it was going to be centered between the other cottages.

Mr. Rushton explained that each person has his own side yard on one side of their cottage. He will be extending 1 foot into his own side yard.

*Comments from the Audience:*

Mrs. Fanning, lessor, said they agree to allow him to do this. They feel it will improve the area. As the cottages get older and need replacing they support rebuilding them.

Mr. Shaw asked if they were on town sewer. Mr. Rushton said yes, as of about 10 years ago.

The Chairman asked the Board if they agreed to the 5 criteria. They all agreed.

Mr. Jay Hilyard, not a direct abutter, asked about the time plan. Mr. Rushton said it will be knocked down this year and will be rebuilt on time to meet the "no-construction" rule during the summer months.

*Back to the Board:*

Mr. Jack Lessard MOVED to grant the petition, SECONDED by Mr. O'Brien.

VOTE: For 5, Oppo 0

MOTION PASSES.  
PETITION GRANTED.

The Chairman called for petition 46-06 again. The Board discussed the closeness of this shed to the property line.

Mr. Shaw MOVED to deny the petition, NO SECOND.

MOTION FAILS.

Mr. McGuirk MOVED to postpone this petition to the end of the October agenda, SECONDED by Mr. Jack Lessard.

**VOTE: For 4, Oppo 1(MS)**

**MOTION PASSES.  
PETITION POSTPONED.**

**BUSINESS MEETING:**

Mr. Vic Lessard told the Board that the Mr. Schultz, Mike O'Neil and Tom Gillick have been working on and are proposing a professional zone covering the block from Winnacunnet Road to Lafayette Road to Mill Road to High Street. He asked the Board if they want to send a letter of support for this zoning change.

Mr. O'Brien MOVED to support the Professional Development Zone covering Winnacunnet to Mill to High Street to Lafayette Road and to ask the Chairman to write a letter advising the Planning Board as such, SECONDED by Mr. Jack Lessard.

**VOTE: For 5, Oppo 0**

The Board then discussed the Conservation Commission Memo dated August 17, 2006. Mr. O'Brien clarified that when the motion was made for the variance it was subject to approvals of the Conservation Commission, Planning Board and the State Wetlands Board. This is the procedure that has always been followed. If we grant a rehearing the only difference foreseen is maybe to go to these other boards first. Mr. Schultz agrees. He doesn't feel the variance negates the fact that the other permits are required. He feels the people should first find out if it's going to be allowed in the first place. Rather than to go through these other boards first and find out it's not feasible.

Mr. Shaw said he's been here for 6 years and at least 30 times we've made this a condition of the approval. This is the first time this has come up.

The Chairman noted that Peter Saari submitted a letter stating that no way are the Clermonts intending to tie the hands of the boards. They also ask to deny the rehearing.

The Board discussed the Chairman meeting with the Planning Board Chairman, the Conservation Commission Chairman and the Building Inspector to discuss the correct procedure to follow.

Mr. McGuirk asked to meet with the Town Attorney to see if the assertions in the letter are correct.

Mr. Schultz explained that just because they received relief here, it doesn't mean the Planning Board and Conservation Commission can't deny a Special Permit. The bottom line is he's not going to get to build unless he has all 3 approvals. He feels this was done properly.

The Board felt it is more safe to allow the rehearing.

Mr. Jack Lessard MOVED to rehear Petition #33-06 and to ask Mrs. Goethel, the Conservation Commission Chairman to attend the hearing, SECONDED by Mr. McGuirk

**VOTE: For 5, Oppo 0**

**MOTION PASSES.  
REHEARING APPROVED.**

Mr. O'Brien asked for a legal interpretation.

Mr. Jack Lessard MOVED to adjourn the meeting at 9:30 p.m., SECONDED by Mr. Shaw.

Respectfully submitted,  
Angela L. Silva,  
Recording Secretary